

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KLAUBER BROTHERS, INC.,

Plaintiff,

-against-

DREAMWEAR, INC.,

Defendant.

07 CV 6133 (PAC)

DREAMWEAR, INC.'S RULE 26(a)(1) INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, Defendant Dreamwear, Inc. ("Dreamwear") makes the following initial disclosures:

A. Individuals Likely To Have Discoverable Information

Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A), Dreamwear discloses the following persons who may have information that Dreamwear may use to support its claims or defenses. Unless otherwise indicated, the persons listed below may be contacted through Dreamwear's counsel.

1. Eliot Franco, President, Dreamwear. Mr. Franco may have discoverable information relating to the Dreamwear products on which the allegedly infringing lace trim appears (the "Garments").
2. Ashleigh Brackman and Ivan Ku may have discoverable information relating to creation, design, purchasing, marketing, promotion and sale of the Garments.
3. Joe Franco and Eliot Franco may have discoverable information relating to costs, revenues and profits associated with the Garments.
4. Eliot Franco may have discoverable information relating to the use of the Delta

Burke name.

5. Fei Wang, Shenzhen-Jianchen Export & Import Co. Ltd. 25A06, Block B. Huangdu Plaza, No. 3008, Yitian Road, Shenzhen, China 518048 may have discoverable information about the manufacture of the Garments.

6. Haofa, 40-41 Maoxin Road, Maoguang, Gurao, Chaoyang, Shantou, China, may have discoverable information relating to the design of the lace trim on the Garments.

7. Roger Klauber, President, Klauber Brothers, Inc. ("Klauber"). Mr. Klauber may have discoverable information relating to the creation of Design 565 or components thereof, the ownership of the copyright in Design 565, the basis for Klauber's claim that Dreamwear has allegedly infringed Design 565 and marketing, promotion and sale of lace trim or other items utilizing Design 565.

8. Lesley Szonyi, Author/Co-Author of Design 565. Mr. Szonyi may have discoverable information relating to the creation of Design 565 or components thereof, as well as the ownership of the copyright in Design 565. Mr. Szonyi's last known address is 40 Charles Street, Apt. C, Westwood, New Jersey 07675.

9. Bernard A. Helfat, Esq., Of Counsel, Profeta & Eisenstein. Mr. Helfat may have discoverable information relating to the ownership of the copyright in Design 565 and U.S. Copyright Registration No. VA 196 346. Mr. Helfat's last known address is 14 Wall Street, 22nd Floor, New York, New York 10005-2101 and his phone number is believed to be (212) 571-9591.

Dreamwear reserves its right to supplement these disclosures as it acquires further information through discovery or investigation.

B. Potentially Relevant Documents

Dreamwear may use the following categories of documents to support its claims or defenses in this action:

1. Garments that contain the lace that is alleged to infringe Design 565.
2. Documents concerning the design incorporated in the lace that is alleged to infringe Design 565. These documents are believed to be located at the offices of Shenzhen Jianchen Export & Import Co., Inc., 25A06, Block B, Huangdu Plaza, No. 3008, Yitian Road Shenzhen, China 518048, and Haofa, 40-41 Maoxin Road, Maoguang, Gurao, Chaoyang, Shantou, China.
3. Correspondence between Dreamwear and Shenzhen-Jianchen Export & Import Co. concerning the lace that is alleged to infringe Design 565 and/or the Garments.
4. A copy of the contract entered into by and between Dreamwear and Jianchen Co., which governed the manufacture and sale of the Garments.
5. Documents concerning the design of the Garments.
6. Documents concerning Dreamwear's purchase and sale of the Garments.
7. The license agreement that governs the use of the Delta Burke name in connection with the Garments.
8. Documents concerning Dreamwear's costs incurred, revenues received and profits earned from the sale of the Garments.
9. A copy of U.S. Copyright Registration No. VA 196 346 for the work entitled, "Design 565." This document was attached to the Complaint and is located in the offices of Dreamwear's counsel.
10. A copy of Supplemental Registration No. VA 1-391-182 for the work entitled,

“Design 565.” This document is located in the offices of Dreamwear’s counsel.

11. A copy of the undated document apparently signed by Mr. Szonyi and recorded with the U.S. Copyright Office on or about March 16, 2006. This document is located in the offices of Dreamwear’s counsel.

Unless otherwise indicated, the referenced documents presently are stored in Dreamwear’s files and/or computer servers, which are located at 183 Madison Avenue, 10th Floor, New York, New York 10016. Dreamwear reserves its right to supplement these disclosures as it acquires further information through discovery or investigation.

C. Computation of Damages

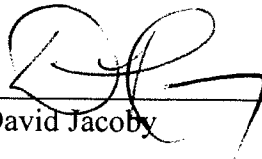
Pursuant to Rule 26(a)(1)(C), Dreamwear states that it has not claimed damages. Dreamwear reserves its right to supplement these disclosures as it acquires further information through discovery or investigation.

D. Insurance Agreements

Pursuant to Rule 26(a)(1)(D), Dreamwear states that it is unaware of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

August 22, 2007

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New York, NY 10022
(212) 753-5000
Judith S. Roth
Steven M. Bocknek

By: 
David Jacoby

Attorneys for Defendant Dreamwear, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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-against-

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STATE OF NEW YORK)

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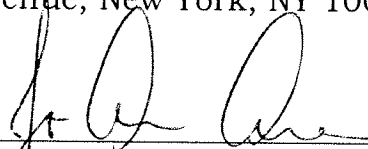
ss.

COUNTY OF NEW YORK)

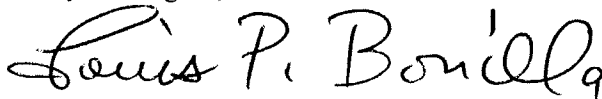
JoAnn Arena, being duly sworn deposes and says:

I am not a party of this action, am over 18 years of age and reside in Queens County, State of New York.

On the 22nd day of August , 2007, I served by first class mail Dreamwear, Inc.'s Rule 26(a)(1) Initial Disclosures on Holly Pekowsky, of Amster, Rothstein & Ebenstein LLP, 90 Park Avenue, New York, NY 10016.


JoAnn Arena

Sworn to before me this
22nd day of August, 2007.



LOUIS P. BONILLA
Notary Public, State of New York
No. 01804918200
Qualified in Bronx County
Certificate Filed in New York County
Commission Expires Dec. 31, 2009